



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUL 25 2006

Honorable Lamar Smith
House of Representatives
Washington, DC 20515

Dear Congressman Smith:

Thank you for your June 27, 2006, letter to Mr. Samuel J. Coleman requesting assistance regarding the concerns of your constituents involving *de minimis* settlement offers for the R&H Oil / Tropicana Superfund Site (Site). The Environmental Protection Agency is committed to continuing efforts to resolve those concerns.

You requested a response to specific questions to help address issues raised by your constituents. Enclosed is a Question and Answer sheet that responds to these questions.

Thank you for this opportunity to assist you in responding to your constituents. Should you have additional questions, please call me at (214) 665-2100, or your staff may contact Buddy Parr of my staff at (214) 665-8424.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard E. Greene", written over a circular stamp.

Richard E. Greene
Regional Administrator

Enclosure



686344

In your letter to EPA, you raised the following questions and concerns:

- 1. As you know, the R&H Oil/Tropicana site has been in existence with various functions since the 1930's, yet, the EPA is only asking those individuals/companies who used the site from 1988 until 1992 to pay for the clean up. Why are these individuals and/or companies the only ones responsible for the clean up, and not those who used the site in the years before 1988?**

The U.S. Environmental Protection Agency (EPA) considers any party who falls under the definition of liable parties in Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607(a), a potentially responsible party for the costs of cleanup. This includes those parties who owned and operated the R&H Oil/Tropicana site prior to 1988. One reason that the owners and operators prior to 1988 did not appear on the volumetric allocation is because the allocation represents only the generator parties, not the owners and operator parties. There were no generators prior to the waste oil operations in 1988. Even though the past owners and operators do not appear on the volumetric allocation, their liabilities are accounted for in the 25% liability not attributed to the generators. All but one of these past owners and operators no longer exist or are non-viable.

All parties who fall under the definition of liable parties in CERCLA are strictly, jointly, and severally liable for the costs of the cleanup.

- 2. Has the EPA investigated any spills that may have occurred at the site prior to 1988? If so, did the EPA determine whether these spills were cleaned up properly? If the EPA did not investigate spills prior to 1988, why not?**

The EPA did not investigate any spills that may have occurred at the site prior to 1988. Since 1980, five spills have been reported at or adjacent to the Site. These spills were investigated by the state's environmental regulatory agency, currently known as the Texas Commission on Environmental Quality. The EPA did not investigate the spills because they were reported to the state regulatory authority, and any action taken by the facility would have been conducted under state oversight.

- 3. In previous meetings, the EPA explained that the parties listed in the settlement offer were identified due to records found at the site. Did the EPA retain all the records found at the site? Was there any attempt made to locate records from any time period other than 1988 until 1992? If Potentially Responsible Parties (PRP) are identified at a later date, how will this affect the settlement offer?**

The EPA has retained all evidence obtained from the Site and from CERCLA Section 104(e) information requests letters. EPA made an attempt to obtain records from all time periods during the title search, corporate history search, and 104(e) information request letters to identify all liable parties. If additional PRPs are identified in the future, EPA will review their liability under CERCLA and act accordingly. The identification of liable PRPs in the future would not affect the current de minimis settlement offer.

- 4. What specific actions did the EPA take to locate and notify previous owners of the site? Did the EPA contact businesses that are closed or sold? Are the companies who transported the waste oil to the site in any way liable for the clean up costs? Does the EPA have a list of transporters?**

The EPA conducted a title search to determine past owners/operators of the Site who may be liable under CERCLA. Information obtained was used to conduct a search of corporate records and issue 104(e) information requests, which revealed that only one previous owner/operator of the Site was viable. The EPA did attempt to contact businesses that were closed or sold to determine viability.

At this Site, it was the practice of the waste oil operators, Golden Materials and Supplies and El Dorado Refining, to pick up and transport the waste oil themselves. The EPA did not identify other transporters that were liable under Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4).

- 5. Can the EPA explain how it came up with the 75/25 percent split for liability for clean up at the site? Is this a typical determination for the EPA at similar Superfund sites? If an individual or an organization provides information to the EPA regarding other spills not taken into account when figuring this 75/25 split, will the EPA be willing to change the de minimis offer by reducing the amount of liability to reflect this new information?**

The 75% liability attributed to the generators at the Site is based on EPA's ability to compromise up to 25% of the projected costs for orphan share. An orphan share is the share of liability attributed to parties that are potentially liable, insolvent or defunct, and unaffiliated with other potentially liable parties at the site. The EPA's current guidance limits the amount that Regions can offer for orphan shares to 25% of the overall costs. Because of the joint and several liability structure, viable parties are required to absorb shares that may be attributed to non-viable parties. To mitigate the effect of this shifting of liability, EPA has committed to compromise a portion of the orphan share at sites. The 25% orphan share is standard EPA practice. At this Site, all but one of the past owner and operator are non-viable parties with no method of recovery for EPA. Therefore, the majority of the past owner and operator liability are accounted for by the orphan share.

In assessing the Site, EPA has taken into account all the site history and contamination. The EPA has not divided the harm at the Site in its assessment of cleanup costs. Although the volumetric allocation gives a pro rata share, it is only a methodology for EPA to offer the early de minimis settlement, not a statutorily-mandated allocation of liability or harm. The volumes attributed to each party do not correspond to relative harm. Because the toxicity or migratory potential of a particular hazardous substance generally vary independently with the volume of waste, the volumetric allocation is not intended as an allocation of the amount of harm contributed by each party. Because of the commingled nature of the contamination at the Site, all of the contamination is treated as one undivided harm.

6. **The Texas Commission on Environmental Quality (TCEQ), formerly the Texas Natural Resources Conservation Commission (TNRCC), indicated that it was aware of the contamination at the site during the 1970's. Can the EPA please provide a chronological timeline of events at the site, starting with TCEQ's findings to the current EPA review?**

The EPA chronology below is based on review of EPA's files and databases. A separate chronology developed by TCEQ, without input from EPA and previously released to Congressman Gonzalez's office, is also listed below.

EPA CHRONOLOGY OF THE R&H OIL/TROPICANA ENERGY SITE

January 12, 1981 – Flint Ink correspondence to EPA stating they do not handle hazardous waste and that as an oil refinery, the company makes base oil for printer's ink.

July 30, 1987 - Golden Materials & Supply, Inc. submit EPA Notification of Hazardous Waste Activity form indicating that they conduct used oil fuel activities at the site.

April 14, 1988 – Summary of communication with Hope Castillo of the Texas Water Commission (TWC). Golden Material (TXD982289795) and Flint Ink (TXD057577579) are both located at 403 Somerset in San Antonio. TWC would like one of the site identification numbers cancelled. TWC's preference was to cancel TXD982289795 and requested EPA to inform Golden Material of its new EPA site identification number (TXD057577579) through a letter.

May 22, 1988 – EPA correspondence to David Robinson of Golden Material & Supply informing him that his company's EPA site identification number has been changed from TXD982289795 to TXD057577579. The reason for the change was because EPA site identification numbers are site specific and a previous site identification number had already been assigned to the facility location of 403 Somerset Road in San Antonio, Texas.

July 22, 1988 – File documentation regarding TXD057577579 [Golden Material & Supply] adding the name Golden Material Corp. to the facility's designation.

July 22, 1988 – Note in file stating that TXD982289795 was a duplicate of TXD057577579. These files were merged and file TXD982289795 was deleted.

April 11, 1989 – EPA received Notification of Hazardous Waste Activity form from D. Robinson of El Dorado Refining and Marketing (located at 403 Somerset Road in San Antonio, Texas) indicating they conduct used oil fuel activities.

April 25, 1989 - EPA provides acknowledgement to D. Robinson of El Dorado Refining and Marketing of his filing of a Notification of Regulated Waste Activity form pursuant with Section 3010 of the Resource Conservation and Recovery Act (RCRA).

May 24, 1991 – EPA received fax correspondence and subsequent Notification of Hazardous Waste Activity form from Howard Kolb of JC Golden Inc. (located at 403 Somerset Road in San Antonio, Texas) indicating they conduct used oil fuel activities.

November 14, 1991 - EPA provides acknowledgement to Howard Kolb of R&H Oil Company (located at 403 Somerset Road in San Antonio, Texas) of his filing of a Notification of Regulated Waste Activity form pursuant with Section 3010 of the Resource Conservation and Recovery Act (RCRA).

April 17, 1998 – The EPA Region 6 – Response and Prevention Branch tasked the Superfund Technical Assessment and Response Team (START) contractor, Ecology and Environment, Inc. (E & E), to perform a removal assessment at the R&H Oil Company site.

October 30, 1998 – Removal Assessment Report for the R&H Oil Company Site completed.

February 2000 - June 18, 2003 – EPA mails eight rounds of 104(e) information request letters to over 500 generators.

June 6 -7, 2000 – EPA On-Scene Coordinator, Remedial Project Manager, and Community Relations Coordinator conducting site visit, conducting community interviews, and meeting with City Officials.

August 5, 2000 – EPA representatives attended public meeting set up by local City Council Member.

November 20, 2000 – EPA's Hazard Ranking System (HRS) documentation record prepared. HRS documentation revised January 20, 2001.

June 14, 2001 – EPA proposes to add R&H Oil/Tropicana Energy Company Site to the National Priorities List (NPL).

June 14, 2001 – Removal Action Contract for the R&H Oil Company, Inc. Site signed. The Contract is an agreement between the EPA and TNRCC which documents the responsibilities of the Lead Agency (EPA) and the Supporting Agency (TNRCC) during the CERCLA removal action.

June 27, 2001 – EPA issues site update fact sheet.

August 2001 – EPA issues site update fact sheet.

August 9 - 10, 2001 – EPA representatives meeting with local City Officials and with local High School Principals to discuss upcoming removal activities.

August 13 to October 10, 2001 – Removal action conducted by EPA. Specific actions completed included the removal of:

- 52,906 gallons of oil with bottoms sediment and water content greater than 30% for off-site disposal.
- 26,701 gallons of wastewater for off-site disposal.
- 1,396 cubic yards of contaminated soil were removed for off-site disposal.
- 30 cubic yards of asbestos for off-site disposal.
- 120 cubic yards of oily debris for off-site disposal.
- 443.14 tons of metal for sale as scrap.
- Excavations were backfilled with existing material on-site to provide a level terrain throughout the site.

August 14, 2001 – EPA extends the public comment period on the NPL proposal until September 10, 2001.

May 2002 – EPA issues site update fact sheet.

July 26, 2002 – EPA provides comments to the Agency for Toxic Substances Disease Registry on the Initial Release Public Health Assessment for the R&H Oil/Tropicana Site.

August 20, 2002 – EPA Remedial Project Manager conducts site inspection and preliminary soil screening activities.

August 25, 2003 – EPA Remedial Project Manager conducts site inspection and provides site tour for potential contractor to the Potentially Responsible Parties (PRP).

December 16, 2003 – Agency for Toxic Substances and Disease Registry issues Public Health Assessment for R&H Oil Company (EPA Facility ID: TXD057577579) and Tropicana Energy Company (EPA Facility ID: TX0002369072) San Antonio, Bexar County, Texas.

March 30 – April 2, 2004 – PRP contractor conducts preliminary site investigation. Investigation included the collection of soil samples and groundwater samples from permanent and temporary wells.

October 13, 2005 – EPA Remedial Project Manager meeting TCEQ Project Manager and with potential PRP contractors for a site tour and to discuss Remedial Investigation/Feasibility Study requirements.

April 20, 2006 - EPA Remedial Project Manager, EPA Ecological Risk Assessor, TCEQ Project Manager, PRP representatives and contractor conduct site visit.

May 17 & 23, 2006 – EPA issues 366 de minimis offer letters.

May 30, 2006 – EPA representatives meeting in San Antonio, Texas with State Senator and constituents who received EPA de minimis offer.

June 15, 2006 – EPA representatives meeting in San Antonio, Texas with State Senator and constituents who received EPA de minimis offer.

June 21, 2006 – EPA representatives meeting in Seguin, Texas with State Representative and constituents who received EPA de minimis offer.

July 1, 2006 – EPA sends meeting notification letter to de minimis parties. Meeting is scheduled to take place on July 27, 2006, in San Antonio and extends deadline to reply to de minimis offer to settle till August 27, 2006. The meeting will be open with admittance granted to any citizens with questions or concerns regarding the site. Following the meeting, individual meetings can be arranged for affected citizens who hold concerns not addressed during the open discussion.

TCEQ CHRONOLOGY OF R&H OIL/TROPICANA SUPERFUND SITE

- * **March 29, 1974** – Letter from Flint Ink Corporation to the Texas Air Control Board (TACB) requesting a permit for a crude oil processing facility. Replacing heat exchangers.
- * **April 8, 1974** – Letter from San Antonio Metropolitan Health District (SAMHD) concerning investigation of March 27, 1974, that indicated facility needed an air permit for operation.
- * **June 12, 1974** - Texas Air Control Board (TACB) conducted investigation to determine if Flint Ink Corporation had a permit for construction of a crude processing unit. Products produced at the refinery were ink oil and diesel fuel. Site also investigated by SAMHD. TACB Permit Application No. C-2243 was submitted for replacement of heat exchangers for processing of crude oil. Sulfur content of oil 0.25%. Capacity of facility was 1,000 bbl/day of crude oil which produced 500 bbls of ink oil and 400 bbls of diesel fuel. Sulfur content of crude oil could develop into a nuisance odor complaint.
- * **June 28, 1974** – SAMHD letter to TACB Permits, indicating that the City of San Antonio had no objections to the permit application.
- * **July 25, 1974** – TACB letter to Flint Ink Corporation indicating that no permit was required, facility was exempt.

- * **November 12, 1980** – Texas Department of Water Resources (TDWR) notified by City Public Service of San Antonio that crews encountered gasoline or hydrocarbon contamination and product at the Highway 81 South Missouri Pacific Railroad Crossing during drilling for setting utility poles. Samples collected at that time revealed a black, oily liquid which had a strong gasoline odor. The defunct Monarch Refinery Company was located at 403 Somerset. The property was owned by Southland Petroleum Company and Flint Chemical Company. Flint Chemical indicated that Monarch refined gasoline and had a loading facility near the railroad crossing. Southland Petroleum indicated that the company was storing gasoline in above ground tanks, but the tanks had only been in use for one year.
- * **April 6, 1981** – TDWR Interoffice Memorandum to TDWR Enforcement, Subject – Gasoline Contamination of Gravel Aquifer – Highway 81 South Missouri Pacific Railroad Crossing, summarized the investigation of November 12, 1980.
- * **October 4, 1983** – TDWR District 8 was contacted about a spill of 200 gallons of oil and waste water from the Flint Oil Company. The City of San Antonio remediated the spilled oil which was discharged to the street.
- * **July 3, 1987** – Texas Water Commission (TWC) registration date for Golden Material & Supply Inc. Registration No. 41092 indicated that company was a transporter and did not generate any wastes.
- * **May 12, 1988** – TACB investigated odor complaint of fumes at Golden Materials. Gasoline spillage at a sump located at Tropicana Energy was pumped to the API separator located at Golden Materials. Tropicana would not allow TACB onsite without a written request to conduct investigation of site.
- * **May 24, 1988** – TACB Notice of Violation (NOV) letter to Tropicana Energy Company, indicating that the company was operating without a permit for a gasoline terminal.
- * **June 2, 1988** – Tropicana Energy Company, Inc. letter to TACB acknowledging receipt of NOV letter.
- * **June 15, 1988** – TACB investigation of Tropicana Energy Company located at 419 Somerset Road. Facility cited for operating a gasoline terminal without a permit. Facility has been in operation since April 6, 1988. Company is operating two – 10,000 bbl. blending tanks (840,000 gallons) and two – 10,000 gallon ethanol storage tanks and one 500 bbl. high octane tank (21,000 gallons). Company will submit a permit application. Tropicana Energy indicated that the company purchased the facility from a San Antonio bank and was under the assumption that the tanks and equipment were suitable for gasoline and in compliance with the TACB.
- * **June 22, 1988** – Tropicana Energy Company contacted the Honorable Billy Clayton via letter and discussed the situation of the gasoline terminal and the actions taken by the TACB.

- * **September 1, 1988** – Flink Ink Corporation interoffice memorandum in reference to San Antonio Refinery indicated that the papers for the sale of the San Antonio Refinery to Golden Material & Supply had been signed. Interoffice memorandum discussed the financial situation of Golden Material to make payments to Flint for the sale of the property as well as one percent per gallon for any oil put through the refinery.
- * **September 8, 1988** – TWC Interoffice Memorandum from District 8 to TWC Enforcement Section summarizing results of investigation conducted on August 24, 1988. Golden Material is operating as a used oil fuel marketer. Used oils are collected from service stations, transmission shops, automotive service garages, military installations, municipal and industrial generators and others. Incoming oils are stored in four 10,000 gallon tanks. It appears that the company is operating both as an “off-specification used oil fuel marketer” and a “specification used oil fuel marketer”. Used oils are burned at 10 asphalt plants in the Bexar County area.
- * **September 8, 1988** – TWC NOV letter from District 8 to Golden Material & Supply, summarizing the violations noted during the investigation of August 24, 1988; failure to notify EPA of its operations, failure to update notice of registration reflecting the generation of solid wastes.
- * **September 15, 1988** – Compliance investigation conducted by TACB to determine status of Permit No. S-18953, which was issued on August 31, 1988, for a gasoline terminal. Company was installing a flare for VOCs. Original NOV resolved. Two additional tanks installed – 10,000 gallons each for storage of natural gasoline. Another violation cited for not amending the Permit to reflect the additional tanks.
- * **September 27, 1988** – Letter from Golden Materials to TWC District 8 Office indicating that the company would correct the violations noted during the August 24, 1988, investigation.
- * **October 4, 1988** – TACB NOV letter to Tropicana Energy regarding the additional installation of two tanks without amending permit.
- * **November 7, 1988** – Tropicana Energy letter to TACB indicating that the company would comply with regulations.
- * **December 22, 1988** – TACB Compliance investigation of Tropicana Energy. Facility consists of two-10,000 bbl. gasoline/alcohol product tanks (840,000 gallons); one 432 bbl. gasoline/alcohol tank (18,144 gallons) and two-238 bbl. gasoline blendstock tanks (19,992 gallons); two – 10,000 gallon condensate tanks and a flare for VOCs. Product sales range from 500,000 to 1,000,000 gallons per month. Company is in violation of adding additional tanks without amending permit.
- * **March 13, 1989** – Letter from El Dorado Refining & Marketing, Inc. to TWC Registration and Classification Unit, indicating that El Dorado intends to purchase the facility from Golden Material and Supply and operate the facility to re-refine spent crankcase and industrial oils just as Golden Material did.

- * **May 15, 1989** – TACB letter to Tropicana Energy regarding the proposed Agreed Order and penalty against the facility for violations of the air regulations.
- * **June 2, 1989** – Notice of Registration submitted for El Dorado. Registered as a Generator/Transporter under Solid Waste No. 32917 and EPA No. TXD057577579.
- * **August 14, 1989** – TACB letter to Tropicana Energy providing a copy of Agreed Order No. 89-07 (t), Tropicana Energy Company, Inc. with a penalty of \$6,825.00.
- * **April 8, 1990** – EPA files civil action against Tropicana Energy alleging 35 violations of the fuels and fuel additive regulations. EPA requests court for declaration that EPA enforcement action is exempt from the automatic stay under Section 362 of the Bankruptcy Code 11 USC 362.
- * **April 27, 1990** – Letter from TWC District 8 to Tropicana Energy concerning unleaded gasoline spill on April 19, 1990, of 8,000 gallons of product and 2,500 gallons of foam and water sprayed on the spill by the San Antonio Fire Department. 8,150 gallons of spilled gasoline and water were removed by Miller Environmental. Tropicana Energy must remediate contaminated soil areas.
- * **May 30, 1990** – Letter from Tropicana Energy to TWC District 8 indicating that the company would remediate the gasoline spill.
- * **June 11, 1990** – Compliance investigation of Tropicana Energy. Permit No. S-18953 issued on August 31, 1988, was reviewed during the investigation. Contaminated soils had not been removed. Facility is in compliance with air permit.
- * **June 22, 1990** – FAX from Raba-Kistner (environmental consultant for Tropicana Energy) to TWC District 8 indicating that the organic contaminants included free product trapped in soil as well as absorbed on the soil. Source of these contaminants could be from previous site operators or from the recent spill.
- * **July 17, 1990** – City of San Antonio Interoffice Memorandum requesting a zoning change for the facility. Tropicana Group is located in California and has been blending alcohol with gasoline in California since 1979. Tropicana Energy has five terminals in Texas and 6 in other states. Tropicana Energy purchased Somerset site in mid 1988. Ten tanks located onsite: Tank 1 – 420,000 gallons blended fuel tank; Tank 2 – 420,000 gallons blended fuel tank; Tank 3 – 18,000 of blended fuel (super unleaded); Tank 4 – 10,000 gallons ethanol alcohol; Tank 5 – 10,000 gallons ethanol alcohol; Tank 6 – 10,000 gallons liquefied natural gas condensate; Tank 7 – 10,000 gallons liquefied natural gas condensate; Tank 8 – 18,300 gallons unused ethanol; Tank 9 – 18,300 gallons unused ethanol and Tank 10 – 18,300 gallons unused ethanol.
- * **September 17, 1990** – NCS Company and Metzger Dairies file lawsuit against Tropicana Energy alleging that petroleum products purchased from the company were contaminated and caused damage to customer's vehicles.

- * **October 8, 1990** – Raba-Kistner report to TWC District 8 regarding Fuel Spill of April 19, 1990, to report the extent and type of fuel contamination at Tropicana Energy Company's Somerset bulk storage plant.
- * **October 8, 1990** – TWC letter from District 8 to Tropicana Energy regarding the spill of April 19, 1990, and the company's failure to provide the information requested from the May 30, 1990, letter. Tropicana Energy failed to account for the 2,300 gallons discrepancy between the amount of gasoline spilled and the amount of gasoline recovered. Tropicana Energy has failed to remediate the spill. If Tropicana does not remediate the spill, company will be referred for formal enforcement action.
- * **October 12, 1990** – Tropicana Energy Company letter to TWC District 8 indicating that the delay in getting the requested information was due to their consultant. Company indicates it will do what it needs to remediate the contamination.
- * **June 13, 1990** – Letter from General Counsel of Flint Ink Corporation to Tropicana Energy regarding the San Antonio Refinery requesting more information before Flint Ink would participate in site cleanup.
- * **September 10, 1990** – Letter from Flint Ink Corporation to Tropicana Energy indicating that material placed on the subject property was not placed there by Flint Ink. Flint Ink indicated that they would not participate in any investigation being conducted by Tropicana Energy for the TWC. Flint Ink purchased the property from the Wing Corporation in 1974. The Wing Corporation operated a refinery onsite, not Flint Ink.
- * **November 10, 1990** – Letter from Tropicana Energy to TWC District 8 indicating that based upon information obtained from Flint Ink, further analysis would be done to determine origin of the gasoline spill.
- * **November 28, 1990** – Letter from Tropicana Energy to TWC District 8 indicating that the gas chromatograph report from the Exxon King Ranch natural gasoline would be used to determine contamination of the site by prior tenants.
- * **December 7, 1990** – Letter from Tropicana Energy to TWC District 8 indicating that the company will spend \$22,770 on remediation of the spill. Letter also indicated that the site has a long history of Potential Responsible Parties (PRPs) in the oil business. Murphy Baxter sold the property to Flint Ink. Murphy Baxter owned and operated Mesa Pipelines onsite and stored hydrocarbons at the facility. Murphy Baxter purchased the property from Monarch Refining. Flint Ink sold the property to Southland Oil Company who operated Quickstop Stores before the bank foreclosed on the property. Tropicana Energy then purchased the property from the bank.
- * **December 18, 1990** – Raba-Kistner (environmental consultant for Tropicana Energy) report to TWC District 8 documenting the field activities conducted to date. Monitoring wells have been installed to determine the extent of the hydrocarbon contamination on groundwater. Soil samples indicate contamination with benzene, toluene, ethylbenzene and xylenes. Also, analysis

appears to indicate the presence of ink oil at a depth of 19-20 feet. Additional work to commence January 1991, with the placement of more monitoring wells.

- * **May 24, 1991** – Letter from Vinson and Elkins to TWC District 8 with attached database summary either from the TWC or the Texas Railroad Commission summarizing spills that have occurred at the facility by Flint Chemical Company and the Southland Corporation dating back to 1947.
- * **May 28, 1991** - Raba-Kistner (environmental consultant for Tropicana Energy) report sent to TWC District 8 regarding Phase II Remedial Investigation of fuel spill. The fuel spill of April 1990, was removed; however, the subsurface soil and groundwater at the site currently contain light to mid-range hydrocarbon product constituents and lead. The April 1990, spill only released light unleaded petroleum products. The volume of hydrocarbons detected is greater than what the April 1990, spill could have caused; therefore, it was concluded that most of these constituents originated from prior use of the property or migration from adjacent, up-gradient properties (Kelly AFB).
- * **June 3, 1991** – Letter from TWC to Tropicana Energy indicating the aboveground storage tanks had not been registered with the Agency. On May 20, 1991, Tropicana indicated that they were in the process of registering the tanks, but had not done so to date.
- * **July 1, 1991** – Raba-Kistner (environmental consultant for Tropicana Energy) report to TWC District 8 reporting another loss of unleaded gasoline from a leaking pipe. The amount of the leak to be determined.
- * **November 6, 1991** – TACB investigation conducted concerning compliance status of Permit No. S-18953. Tropicana Energy reported that the facility was shutting down and would be closed after January 1, 1992. The storage tanks were emptied sometime around October 1991, and the flare also has not operated since October 1991. The facility was issued an Agreed Order on August 11, 1989, for violation of the air regulations and paid a penalty of \$6,825.00. Facility appears to be in compliance with the regulations.
- * **January 15, 1992** – TACB letter to Tropicana Energy voiding the active Permit File 18953 and the Air Account No. BG-047-P. The facility has not been in operation since August 1991.
- * **April 14, 1992** – Tropicana Energy files for bankruptcy.
- * **May 14, 1992** – TWC District 8 interoffice memorandum to TWC Legal Division indicting that Tropicana Energy Company, Inc. filed for Chapter 11 Bankruptcy. TWC District 8 was requesting that Legal Division refer the case to the Texas Attorney General's Office to file a claim on behalf of the State of Texas to achieve cleanup of soil and water contamination on-site. The report summarized all known parties that were PRPs onsite: Flint Ink (1947 thru 1987), Golden Material & Supply (1987 thru 1988); Eldorado Refinery & Marketing (1989 thru 1990); T.C. Golden Material & Supply (1987 thru 1988); Eldorado Refinery & Marketing (1989 thru 1990); T. C. Golden (1990 thru ??); and R & H Waste Oil (Howard Kolb and Robert Skelton 1992?). Other parties include Tropicana Energy Company, Inc.; Monarch Refining Company,

division of Wing Corporation (1950 thru 1973); Flint Ink (1974 thru 1978); Southland Petroleum (1978 thru 1985); Southern State Bank (1985).

- * **June 16, 1992** – Letter from TWC Executive Director, Jesus Garza, to the Honorable Dan Morales, Attorney General of Texas, requesting representation of the TWC in the Bankruptcy Proceeding for Tropicana Energy Company, Inc.
- * **August 31, 1992** – “Notice of Intention to Abandon” property granted for Tropicana Energy Company, Inc., Case No. 392-33472-HCA-11, successfully abandons the San Antonio Blending Terminal located on Somerset Road. Lienholder was the Southern State Bank for \$85,000.00.
- * **May 10, 1993** – TACB investigation of facility. The facility is closed. Company sent a letter dated November 22, 1991, to the TACB requesting that Permit No. 18953 be voided. Agreed Order 89-07 (t) should be inactivated.
- * **August 2, 1994** – Texas Natural Resource Conservation Commission (TNRCC), conducted a Site visit to the El Dorado Refinery (formerly Golden Material & Supply, Inc.) as part of a site visit to Tropicana Energy Corporation. An automotive waste recycling company (PSL Services, Inc.) was observed onsite. It was determined that the property was owned by a group of investors from Mexico. Andrew Sanchez was identified as the owner. He is the President of T. C. Golden. T. C. Golden foreclosed in 1989 on El Dorado Refinery and is the current owner.
- * **November 28, 1994** – City of San Antonio Fire Department interdepartmental correspondence indicating that an imminent fire hazard exists at 419 Somerset due to overgrown vegetation near the tanks. T. C. Golden owned by Andrew Sanchez has filed for bankruptcy and the site was presently being used by PSL Services owned by Chris Taylor. Taylor has a verbal agreement with Sanchez to utilize onsite tanks for storage of waste oils.
- * **December 6, 1994** – Texas Attorney General’s office indicates that the site was successfully abandoned under the “Trustee’s Motion to Abandon” the site.
- * **January 25, 1995** – Texas Attorney General’s office notified the TNRCC that Tropicana Energy is an empty company– a shell with no assets. Therefore, TNRCC does not have a responsible party unless previous owners exist and the TNRCC has proof that contamination was present when owned by others. The site will be referred to State Superfund.
- * **October 17, 1995** - TNRCC District 8 letter to Tropicana Energy Company indicating that a Compliance Evaluation Inspection would be conducted on October 30, 1995, at the facility.
- * **November 20, 1995** – TNRCC interoffice memorandum from District 8 to TNRCC Central Office, Subject: Tropicana Energy Company, Inc. – Sampling Inspection conducted September 1995, and Compliance Evaluation Inspection conducted October 30, 1995, referring site for enforcement and possible referral to State Superfund.
- * **December 28, 1995** - TNRCC interoffice memorandum to the Pollution Cleanup Division, Subject – Tropicana Energy Company, referring the site to State Superfund.

- * **April 1, 1996** – TNRCC interoffice memorandum from District 8 to Central office summarizing the results of the compliance evaluation investigation conducted on December 6, 1995, and referring the site for enforcement. Notice of Violation (NOV) letters sent to Flint Chemical and T. C. Golden as well as PSL and El Dorado were unsuccessful.
- * **June 14, 1996** – TNRCC Notice of Violation (NOV) letter from Enforcement Division to PSL Services discussing the existing violations from the former El Dorado Refining & Marketing, Inc. facility indicating that PSL Services was being considered as one of the parties responsible for solid waste and soil contamination at the site and may be required to participate in site remediation.
- * **June 24, 1996** – Letter from PSL Services, Inc. to TNRCC Enforcement Division indicating that PSL Services used three storage tanks for the storage of used oils at the site. PSL indicated that they would shut down all operations by the end of June 1996.
- * **July 5, 1996** – TNRCC NOV letter from Enforcement Division to Flint Ink Corporation, indicating that as a former owner, Flint may be partially responsible for site contamination.
- * **July 9, 1996** – TNRCC NOV letter from Enforcement Division to T.C. Golden, Inc. requesting the company remediate contamination located at the site.
- * **July 26, 1996** – Letter from T.C. Golden indicating that they are not responsible for the contamination located at the site. T.C. Golden took repossession of this property when El Dorado Refining & Marketing defaulted on the loan. T.C. Golden filed for bankruptcy on September 26, 1990, and was discharged on January 29, 1991. T.C. Golden owner (Andrew Sanchez) indicates that he has cancer and has no assets.
- * **August 27, 1996** – TNRCC Litigation Support Division letter to T.C. Golden requesting financial documentation to make a determination of T.C. Golden's ability to undertake appropriate corrective action and pay administrative penalties for the contamination located at the property.
- * **August 27, 1996** – Letter from James Morriss III, Thompson & Knight, attorneys for Flint Ink to TNRCC in response to the July 5, 1996, NOV letter, indicating that Flint Ink should not be singled out to investigate and remediate what appears to be a regional concern. The site may not be the sole source, or the lone source of groundwater contamination. Flint Ink requested that TNRCC convene a meeting between Flint and representatives from Kelly AFB and Tropicana Energy before Flint Ink is required to undertake site remediation.
- * **October 10, 1996** – EPA Region 6 and TNRCC conduct a joint compliance investigation of the site to evaluate the site for EPA emergency response action.
- * **June 10, 1997** – TNRCC interoffice memorandum, Subject: El Dorado Refining & Marketing, Inc., summarizing that releases of hazardous substances had occurred resulting in soil and groundwater contamination; the site is inactive and enforcement has been exhausted. The former

owners, at the time, are not viable parties for further enforcement proceedings. It is recommended that the site be reviewed by Superfund for appropriate cleanup.

- * **January 28, 1997** – TNRCC letters from Litigation Support Division, to El Dorado Refining & Marketing and PSL Services, Inc. requesting participation of both companies in remediation of the site.
- * **January 28, 1997** – TNRCC letter from Litigation Support Division to Golden Materials & Supply, requesting participation of company in remediation of the site.
- * **April 2, 1998** – TNRCC letter from State Superfund Site Discovery Team to T.C. Golden providing notification that EPA has scheduled the site for a Screening Site Inspection (SSI) and requesting the presence of the owner of the facility.
- * **June, 1988** – EPA/TNRCC Preliminary Assessment Report for El Dorado Refining & Marketing, Inc. Site aka R&H Oil Company, EPA. No. TXD057577579.
- * **June, 2000** – EPA/TNRCC Screening Site Inspection Report for R&H Oil Company aka El Dorado Refining & Marketing, Inc. EPA No. TXD057577579.
- * **April 20, 2001** – EPA Hazard Ranking System (HRS) Documentation Record for R&H Oil Company.
- * **June 14, 2001** – EPA proposed listing R&H Oil Company/Tropicana Energy Company on The National Priorities List (NPL) as a federal Superfund site.
- * **October 10, 2001** – EPA completed the time-critical removal actions at the R&H Oil Company/Tropicana Energy Company site. The specifics of the time-critical removal action included: removal of 30 cubic yards of asbestos containing material (pipe and equipment insulation, building tile and mastic); removal of 86,000 gallons of liquid waste; removal of 1,500 cubic yards of contaminated soil and sludge; removal of 120 cubic yards of oil debris; and removal of 587 tons of scrap steel from demolition of the facility.
- * **September 13, 2002** – EPA sends General Notice Letter to the major Potential Responsible Parties (PRPs) and to the two former owner and operators, with the next step to send out hundreds of letters to the minor PRPs.
- * **May 17, 2006** – EPA sends letters to 678 PRPs in regards to remediation of the R&H Oil/Tropicana site.

7. **Does the EPA consider waste oil a hazardous waste product? How long have hazardous waste mitigation procedures been in place? Is the EPA involved in that process? With respect to the R&H Oil/Tropicana site, what type of on-site treatment for the contamination is available?**

Waste oil is considered a hazardous substance, which is the basis of EPA's authority under CERCLA Section 101(14), 42 U.S.C. § 9601(14). Waste oil is not considered a product. The EPA conducted removal actions to address the above-surface contamination at the Site in 2001. The EPA is continuing in its regulatory efforts to address the remaining contamination through the remedial action process.

The appropriate remedial action for the Site cannot be determined until the remedial investigation/feasibility study has been completed. A primary goal of the remedial investigation is to adequately determine the nature and extent of release or threatened release of hazardous substances and, as appropriate, its impact on soils, groundwater and surface water or the environment. The goal of the feasibility study is to identify and screen the potential remedial alternatives for a site. Some of the remedial alternatives that may be options are land-farming, soil vapor extraction, bio-venting, containment, recovery of free product, and in-situ bioremediation. However, only after the completion and review of the remedial investigation/feasibility study can an appropriate remedy be selected.

- 8. Due to a mathematical error on the EPA's part, original settlement offers for the site had to be revised and sent again. We understand that the EPA will be granting a time extension for responding to the de minimis offer. When will the affected parties be notified of the extension and how long will the extension be?**

The EPA sent notices to all parties on June 7, 2006, with a revised cost allocation table that indicated the revised settlement amounts. This notice included a thirty (30) day extension from the parties original due date to respond to the de minimis offer. In notices sent July 6, 2006, and July 14, 2006, parties were informed of an additional extension until August 27, 2006.